

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

ANTHONY A. BURNS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CV 113-182
	)	
CAPTAIN C.V. HUFFMAN, et al.,	)	
	)	
Defendant.	)	

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**ORDER**

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After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation ("R&R"), to which objections have been filed (doc. no. 18). The Magistrate Judge recommended dismissal of Plaintiff's complaint without prejudice for failure to comply with the Magistrate Judge's January 16, 2014 Order. (Doc. no. 7.) In that Order, the Magistrate Judge ordered Plaintiff to both (1) return the provided *in forma pauperis* ("IFP") form and supporting affidavit or pay the \$400.00 filing fee, and (2) submit his amended complaint on the provided standard form complaint provided with the order. (doc. no. 14-1, p. 5.)

With respect to ordering Plaintiff to amend his complaint, the Magistrate Judge detailed the history of Plaintiff's filing deficiencies as follows:

On October 30, 2013, after Plaintiff attempted to amend his complaint in an improper piecemeal fashion, the Court directed Plaintiff to submit a complete amended complaint on the provided Southern District form, or have his complaint screened as it was originally filed. (See doc. nos. 6, 7.)

Plaintiff chose to submit an "Amended Statement of Claim," which consisted solely of Plaintiff's "Statement of Claim" and the relief he sought, and was not on the provided Southern District form. (Doc. no. 9.) Moreover, this filing was not signed. (Id.) On December 13, 2013, this Court gave Plaintiff another opportunity to comply with the instructions provided in its October 30th Order. (Doc. no. 10.) In direct contravention of both Orders, although Plaintiff signed the filing, he submitted what amounted to the same "Amended Statement of Claim" filed previously and filled out only two pages of the Southern District form. (Doc. no. 12.)


(Id. at 2.) Therefore, the Magistrate Judge notified Plaintiff that he must properly amend his complaint in accordance with the October 30th Order if he wished to pursue his case, because he had failed to provide the information required by this District and continued to attempt to amend his complaint in an improper, piecemeal fashion. (Id. at 3.)

In response, Plaintiff simultaneously filed a motion to proceed IFP and his objections to the R&R, in which he requests that his case go forward. (Doc. nos. 17, 18.) In his objections, Plaintiff states that he sent "an amended complaint along with another motion to proceed IFP" on January 28, 2014. (See doc. no. 18.) He asks "the Courts to consider that an amended complaint was filed on three different occasions." (Id.)

The Magistrate Judge expressly informed Plaintiff of the deficiencies with his "amended complaint" and ordered him to submit a proper amended complaint following the express directions laid out for him in its January 16th Order. Instead of complying with that Order, Plaintiff now wishes to proceed with his deficient "amended complaint." However, even if the Court were to ignore the fact that Plaintiff's "amended complaint" was an improper, piecemeal amendment, Plaintiff's case cannot proceed because, as discussed in the January 16th Order, the "amended complaint" fails to provide the information required by this District.

Accordingly, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of the Court. Therefore, this case is **DISMISSED** without prejudice for failure to comply with a court order and **CLOSED**.<sup>1</sup>

SO ORDERED this 20<sup>th</sup> day of March, 2014, at Augusta, Georgia.



HONORABLE J. RANDAL HALL  
UNITED STATES DISTRICT JUDGE  
SOUTHERN DISTRICT OF GEORGIA

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<sup>1</sup>As the Court has concluded that this case is dismissed without prejudice for Plaintiff's failure to comply with a court order and closed, his request to proceed IFP is **DENIED AS MOOT**. (Doc. no. 17.)